

## **ADMINISTRATIVE PANEL DECISION**

**Patanjali Ayurved Limited v. Rakesh Raj**  
**Case No. D2022-2136**

### **1. The Parties**

The Complainant is Patanjali Ayurved Limited, India, internally represented.

The Respondent is Rakesh Raj, India.

### **2. The Domain Name and Registrar**

The disputed domain name <patanjaliayurvedltd.org> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on June 21 and July 14, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2022.

The Center appointed Ashwinie Kumar Bansal as the sole panelist in this matter on August 11, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Patanjali Ayurved Limited is a public company registered under the Indian Companies Act, 1956. The registered office of the Complainant is situated at New Delhi and Corporate/ Administrative Office at Haridwar. The Complainant is in the business of procuring, processing, manufacturing and marketing of herbal products including medicines, cosmetics and food products, beverages, personal and home care products, extracts and so many similar commodities.

The Complainant got its figurative Trademark PATANJALI registered with the Registrar of Trademarks, Mumbai as Trademark No. 2254680 on December 22, 2011. Moreover, the Complainant registered the Trademark in other countries as well. The date of use of the mark in commerce is from January 13, 2006.

The Respondent has registered the disputed domain name <patanjaliayurvedltd.org> on April 3, 2022. The disputed domain name incorporates the Trademark PATANJALI of the Complainant in its entirety and resolves to a page displaying application for a dealership/franchise of the Complainant's products.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant has been using the Trademark PATANJALI since 2006 and it has been in operation continuously. The Complainant claims that it is the owner of the common law trademark rights in the Trademark PATANJALI and all other intellectual property rights associated with the use of the Trademark. The Trademark is a well-established brand in India and other countries.

No authority has been bestowed upon the Respondent to operate, maintain or register a website using the registered Trademark either by the Complainant or his association/company.

The disputed domain name is identical and/or confusingly similar to the Trademark in which the Complainant has prior rights and relates directly to the registered Trademark PATANJALI. Moreover, neither the Complainant nor its Board of Managers, have authorized the Respondent to use the confusingly similar and/or identical domain name.

The Respondent has not been commonly known by the disputed domain name. The disputed domain name of the Respondent is identical to the name of the Complainant's registered Trademark PATANJALI. The disputed domain name is used just to confuse the public and to take the undue advantage of the goodwill of the registered Trademark PATANJALI. The Respondent is not making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain. It misleads and diverts the Internet users and seeks to tarnish the Trademark PATANJALI.

The Respondent has no rights or legitimate interest in the disputed domain name because the Complainant has not granted any permission to the Respondent to use the disputed domain name. The Respondent's use of the disputed domain name has no connection with the *bona fide* offering of goods and services.

The Respondent may use the disputed domain name just to make an attempt to attract Internet users for personal gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Moreover, the disputed domain name containing the registered Trademark PATANJALI further confuses the public as to the source of the information found on the website.

The Respondent has registered the disputed domain name just for the purpose of disrupting the business of a competitor and is using the domain name in bad faith, and the Respondent's use of the disputed domain name creates confusion as to the source of the information found on the website under the disputed domain name.

The Respondent has registered the disputed domain name to misappropriate illegally and without authority, the Complainant's registered Trademark which is an exclusive property of the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

As per paragraph 5(f) of the Rules, where a respondent does not submit a substantive response, in the absence of exceptional circumstances, the panel shall decide the dispute based upon the Complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a substantive response. As per paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the Panel is to draw such inferences there from as it considers appropriate.

It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy, which sets out the three elements that must be present for the proceeding to be brought against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows: "You are required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in compliance with the Rules of Procedure, that

- (i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) you have no rights or legitimate interests in respect of the domain name; and
- (iii) your domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three elements are present."

The Panel will address all the three aspects of the Policy listed above hereunder:

### **A. Identical or Confusingly Similar**

The Panel has considered and examined all the documents submitted by the Complainant in support of its claim that the Complainant has been using and has registration for the Trademark PATANJALI. The Complainant has furnished evidence of its rights in the Trademark PATANJALI. There is no doubt that the Complainant has rights in the Trademark PATANJALI.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7 provides the view of panelists: "While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant trademark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark for purposes of UDRP standing." Mere addition of the term "ayurvedltd" does not make the Trademark PATANJALI unrecognizable in the disputed domain name. The Panel considers it useful to refer to [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements." The Panel finds that the Trademark PATANJALI of the Complainant is recognizable in the

disputed domain name.

Generic top-level domains (“gTLDs”) are one of the categories of top-level domains (“TLDs”) which is a top-level domain is the last level of every fully qualified domain name. The “gTLD” is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1 states that the applicable gTLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such may be disregarded under the first element confusing similarity test.

Therefore, the Panel finds that the Complainant has successfully established the first element of paragraph 4(a) of the Policy.

## **B. Rights or Legitimate Interests**

The Complaint is based on the Trademark PATANJALI registered in favor of the Complainant and, used in connection with goods and services offered by the Complainant.

The Respondent is in no way either related to or an agent of the Complainant. The Trademark PATANJALI, in the above-mentioned background, indisputably vests in the Complainant as evidenced by statutory registration not only in India but in other jurisdictions as well, secured by the Complainant.

The Respondent has registered the disputed domain name consisting of the Trademark PATANJALI of the Complainant. The Complainant had been using the Trademark for a long time since 2006. The Complainant has not authorized or permitted the Respondent to use the Trademark PATANJALI.

Paragraph 4(c) of the Policy lists circumstances, but without limitation, which, if found by the Panel to be proved, may demonstrate the Respondent’s rights or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy. [WIPO Overview 3.0](#), section 2.1 states that: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The use of the disputed domain name to resolve to a website advertising ayurvedic products including products of the Complainant is not a *bona fide* offering of goods and services.

The Respondent has failed to file a response to rebut the Complainant’s *prima facie* case or to explain his rights or legitimate interests. The Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name as per paragraph 4(c) of the Policy or otherwise.

The Panel finds that the disputed domain name, incorporating the entirety of the Trademark PATANJALI, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

In the absence of the Respondent’s response, and considering the evidence submitted by the Complainant, the Panel finds that the Complainant has satisfied its burden to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel is satisfied that the second element of the Policy has been met.

## **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy identifies, but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith. Each

of the four circumstances in paragraph 4(b) of the Policy, if found, is evidence of “registration and use of a domain name in bad faith”. The Complainant is required to prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith. Hence, circumstances at the time of registration and thereafter must be considered by the Panel.

Noting the well-established reputation of the Complainant’s Trademark PATANJALI and the use of the domain name referring to the Complainant’s products, the Panel finds that the Respondent was aware of the Complainant’s existence or presence in the market.

The Respondent is using the disputed domain name to resolve to a website advertising ayurvedic products including products of the Complainant. [WIPO Overview 3.0](#), section 3.1.1 states that: “If on the other hand circumstances indicate that the Respondent’s intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant’s trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent’s likely knowledge of the complainant’s rights, (ii) the distinctiveness of the complainant’s mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant’s trademark, e.g., through links to the complainant’s competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to ‘sell to the highest bidder’ or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, (viii) a respondent’s request for goods or services in exchange for the domain name, (ix) a respondent’s attempt to force the complainant into an unwanted business arrangement, (x) a respondent’s past conduct or business dealings, or (xi) a respondent’s registration of additional domain names corresponding to the complainant’s mark subsequent to being put on notice of its potentially abusive activity.”

The Complainant has produced evidence of registration of the Trademark PATANJALI. The Respondent registered the disputed domain name on April 3, 2022 well after the registration the Trademark PATANJALI of the Complainant. The Complainant has not granted the Respondent permission or a license of any kind to use its Trademark PATANJALI and register the disputed domain name. Such use of the disputed domain name by the Respondent suggests opportunistic bad faith. In view of these facts, and the nature of the disputed domain name is likely to cause confusion as to source, sponsorship, or affiliation, which constitutes bad faith registration and use under paragraph 4(b)(iv) of the Policy. The Respondent’s purpose in registering and using the disputed domain name which incorporates the entire Trademark of the Complainant is, in the Panel’s view, to illegitimately capitalize on the reputation of the Trademark.

In view of the above, the Panel concludes that the third and last condition provided for by paragraph 4(a)(iii) of the Policy is met. The Panel therefore, finds that the disputed domain name has been registered and is being used by the Respondent in bad faith.

## **7. Decision**

For the foregoing reasons, in accordance with paragraph s 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <patanjaliayurvedltd.org> be transferred to the Complainant.

*/Ashwinie Kumar Bansal/*

**Ashwinie Kumar Bansal**

Sole Panelist

Date: August 24, 2022